

August 19, 2004
Docket No.: DP-308578 (7500/244)
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-- REMARKS --

A. Claims 1, 3, 5, 7-10, 13-15, 8-20 were rejected under 35 U.S.C. §102(b) as anticipated by US Patent number 5,394,963 to Deane

Applicants thank the Examiner for the courtesies shown to their counsel during the interview of August 16, 2004. During the interview, the Examiner agreed that a typographical error exists in the office action. The §102(b) rejection applies to claims 1, 3, 5, 7-10, 13-15, 16, and 18-20, rather than the claims listed in paragraph 3 of the office action.

The §102(b) rejection of claims 1, 3, 5, 7-10, 13-15, 16, and 18-20 is traversed. In order to maintain this §102(b) rejection, each and every element of the rejected claims must be disclosed in at least as great detail as claimed. As Deane fails to disclose "at least one thermal conduit" as claimed in independent claims 1, 10 and 16, Deane cannot anticipate the instant invention.

Deane discloses a brake system including a "coolant system" that includes a "pump 18 which pumps a cooling fluid through a coolant circuit 23 The coolant fluid is then directed to the brakes 22 where it flows through the passage 12 in the calipers 10." See, Deane, column 2, lines 39-49. Thus, Deane discloses a system using a liquid coolant carried within a coolant circuit, and the liquid coolant disperses heat. Such a system is notable for requiring a pump 18.

In contrast, a thermal conduit is not connected to a pump. See, specification, page 5, lines 25-26. Therefore, the structure claimed can not be construed as reading on the Deane disclosure.

Claim 16 is a §112 para. 6 claim, and Applicants are entitled to the broadest reasonable interpretation of the claim. However, the broadest reasonable interpretation of claim 16 does not include a pump driven coolant system as disclosed in Deane, and therefore, at the very least, claim 16 cannot be anticipated by Deane.

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Claims 3, 5, 7-9, 13-15 and 18-20 depend directly or indirectly from claims 1, 10 or 16, and therefore are allowable over the references for at least the same reasons.

Withdrawal of the §102(b) rejections to claims 1, 3, 5, 7-10, 13-15, 16 and 18-20 is requested.

B. Claims 2, 6, and 11 were rejected under 35 U.S.C. §103(a) as being unpatentable over Deane

The §103(a) rejection of claims 2, 6 and 11 is traversed. Claims 2 and 6 depend directly from claim 1 and are therefore patentable over Deane for at least the same reasons. Claim 11 depends from claim 10 and is therefore patentable over Deane for at least the same reasons.

Indeed, by teaching a pump-driven coolant system, Deane directly and unequivocally teaches away from the claimed thermal conduit. The Deane system relies on a functioning pump to circulate the liquid coolant to flow the heat away from the cooled parts of the brake. In contrast, the claimed thermal conduit has no pump and does not rely on circulating fluid – instead the claimed thermal conduit extends distally from the actuator motor for dissipating heat energy away from the actuator motor. Claims 2 and 11 require that the material of the thermal conduit has “a thermal conductivity greater than that of the brake caliper assembly.” By teaching that fluid flow conducts heat from the brake caliper, the ordinarily skilled practitioner would not be motivated to construct the pipes from any particular material, nor to choose that material based on its thermal conductivity characteristics. Indeed, given the need for a pump to drive the Deane system, it is plausible that the ordinarily skilled practitioner would likely seek a material that is as light as possible, in an effort to minimize the increased unsprung weight of the brake system.

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Since the prior art does not show a brake assembly with thermal conduits as claimed, Applicants request the Examiner withdraw the rejections. If the Examiner wishes to maintain the rejection, Applicants traverse the statement "it would have been obvious to the ordinary skilled worker in the art at the time of the invention" and request the Examiner to make a showing in the prior art or in the form of an examiner declaration/affidavit supporting the conclusion, that it would have been obvious to make a pump-driven coolant system from material having a greater thermal conductivity than the caliper. See, MPEP 706(a)(2). "If the Applicant traverses such an assertion, the Examiner should cite a reference in support of his/her position." Absent such a showing, Applicants respectfully request allowance of the claims.

Withdrawal of the rejections to claims 2, 6 and 11 is requested.

C. Claims 4, 12, and 17 were rejected under 35 U.S.C. §103(a) as being unpatentable over Deane in view of United States Patent 5,954,166 to Meade

The §103(a) rejection of claims 4, 12, and 17 is traversed. Claims 4, 12 and 17 depend directly from claims 1, 10 and 16 respectively and are therefore patentable over Deane in view of Meade for at least the same reasons. As indicated in MPEP 2143.03, "[i]f an independent claim is nonobvious under 35 U.S.C. §103, then any claim depending therefrom is nonobvious."

Withdrawal of the rejections to claims 4, 12 and 17 is requested.

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CONCLUSION

Examiner Schwartz's rejections of claims 1-20 have been obviated by Applicant's arguments. The Applicant respectfully submits that claims 1-20 herein fully satisfy the requirements of 35 U.S.C. §§102, 103 and 112, as well as 37 CFR 1.126. In view of the foregoing, favorable consideration and early passage to issue of the present application is respectfully requested.

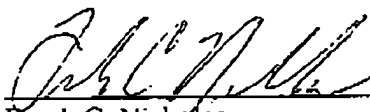
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